

Plaintiff's Name Charles P. Ellis

Inmate No. 2311971

Address 17810 Industrial Ave RD
Bakersfield, ca 9330A

FILED

OCT 17 2022

CLERK U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

IN THE UNITED STATES DISTRICT COURT

DEPUTY CLERK

FOR THE EASTERN DISTRICT OF CALIFORNIA

(Name of Plaintiff)

(Case Number)

vs.

SGT ESCANDON
COUNTY OF KERN ET AL
KERN CO SHERIFF DEPT

(Names of all Defendants)

I. Previous Lawsuits (list all other previous or pending lawsuits on additional page):

A. Have you brought any other lawsuits while a prisoner? Yes X No

B. If your answer to A is yes, how many? 2

Describe previous or pending lawsuits in the space below. (If more than one, attach additional page to continue outlining all lawsuits in same format.)

1. Parties to this previous lawsuit:

Plaintiff Charles Ellis

Defendants County of Kern

US District Court Eastern Division

2. Court (if Federal Court, give name of District; if State Court, give name of County)

3. Docket Number 122-cv-00436

4. Assigned Judge ADA-BAM

5. Disposition (Was the case dismissed? Appealed? Is it still pending?)

Pending

1:22-cv-01209-SAB-PC

AMENDED CIVIL RIGHTS COMPLAINT UNDER:

☒ 42 U.S.C. 1983 (State Prisoner)

☐ Bivens Action [403 U.S. 388 (1971)] (Federal Prisoner)

RECEIVED

OCT 17 2022

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY AL DEPUTY CLERK

II. Exhaustion of Administrative Remedies

NOTICE: Pursuant to the Prison Litigation Reform Act of 1995, "[n]o action shall be brought with respect to prison conditions under [42 U.S.C. § 1983], or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." 42 U.S.C. § 1997e(a). Prior to filing suit, inmates are required to exhaust the available administrative remedy process, *Jones v. Bock*, 549 U.S. 199, 211, 127 S.Ct. 910, 918-19 (2007); *McKinney v. Carey*, 311 F.3d 1198, 1999 (9th Cir. 2002), and neither futility nor the unavailability of money damages will excuse the failure to exhaust, *Porter v. Nussle*, 534 U.S. 516, 524, 122 S.Ct. 983, 988 (2002). If the court determines that an inmate failed to exhaust prior to filing suit, the unexhausted claims will be dismissed, without prejudice. *Jones*, 549 U.S. at 223-24, 127 S.Ct. at 925-26.

A. Is there an inmate appeal or administrative remedy process available at your institution?

Yes X No _____

B. Have you filed an appeal or grievance concerning **ALL** of the facts contained in this complaint?

Yes X No _____

C. Is the process completed?

Yes X If your answer is yes, briefly explain what happened at each level.

There is only one level, here, in the Kern County Jail. It was denied, stating Departmental policy.

No _____ If your answer is no, explain why not.

III. Defendants

List each defendant's full name, official position, and place of employment and address in the spaces below. If you need additional space please provide the same information for any additional defendants on separate sheet of paper.

A. Name SGT. Escandon is employed as a SGT, Detentions Deputy
Current Address/Place of Employment Kern County Jail, Bakersfield, Ca

B. Name _____ is employed as _____

Current Address/Place of Employment _____

C. Name _____ is employed as _____

Current Address/Place of Employment _____

D. Name _____ is employed as _____

Current Address/Place of Employment _____

E. Name _____ is employed as _____

Current Address/Place of Employment _____

IV. Causes of Action (You may attach additional pages alleging other causes of action and the facts supporting them if necessary. Must be in same format outlined below.)

Claim 1: The following civil right has been violated (e.g. right to medical care, access to courts, due process, free speech, freedom of religion, freedom of association, freedom from cruel and unusual punishment, etc.):

14th Amendment Due Process Clause, right to medical care

Supporting Facts (Include all facts you consider important to Claim 1. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, *by name*, did to violate the right alleged in Claim 1.):

See ATTACHED Pg. #11)

Claim 2: The following civil right has been violated (e.g. right to medical care, access to courts, due process, free speech, freedom of religion, freedom of association, freedom from cruel and unusual punishment, etc.):

Supporting Facts (Include all facts you consider important to Claim 2. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, *by name*, did to violate the right alleged in Claim 2.):

Page #1. Supporting facts...

10/10/22

Plaintiff is a Detention detainee, housed at Kern Co. Jail, Justice facility. I have been having extreme pain in my left knee for close to 2 years. I have been treated here in the Kern County Jail, by facility doctors for this period of time, however, not continuously, but sporadically. I have been seen numerous times by the facility doctors, as well as the facility Nurse practitioners, and over time they have attempted to assist me, in finding out the cause of my knee pain, since no visual cause was available. I have been in severe pain, as well as patient there at all, and have went to all scheduled appointments. On one such appointment, I was told that an appointment with an orthopedic specialist, was in order, and after consulting him, an (MRI) was recommended, in order to find the origin of pain I have been enduring. After my first appointment with the orthopedic specialist, I was called in, to see facility doctors.

On this visit, my knee was examined again, and as always, swelling was noted and detected, and I was then briefed, on the subject of my prior orthopedic visit with the specialist.

I was told that, the Xrays taken that day, had revealed no visual explanations, as to the cause of my pain, and that a (MRI) was scheduled on my behalf, for 8-18-22. I was told, also, that the orthopedic DR, had put in his notes, his recommendation for me to keep my leg elevated, wrapped and to be non-weight bearing. So, I was asked if I would

Use crutches in order to comply, with doctors orders, and I agreed to do so. This was the conclusion of that Dr's visit on That day, so, I was then escorted, back to my housing area.

Later that night, the Nurse stopped by my cell to hand me my nightly medications, and handed me a copy of A medical chrono as well. This chrono had a Note that Was written on it by the facility doctor, That said, "Keep knee elevated, and to be Non-Weight bearing. It also showed that I was to be provided crutches, and an Ace Bandage, in order to wrap my knee with. AT The very bottom of the chrono, There was more writing, That said, that the Chrono, and equipment Was to be "denied" due to SGT Escandon, "Seeing me" Walking on camera."

The Dr's never said that I couldn't Walk, in fact it would take a person "who could walk" to use crutches in the first place, but they were prescribed in order for me to comply with the orthopedic specialist, recommendations, to be Non weight bearing.

SGT. Escandon is a SGT. Detentions Deputy, whose Duties are to oversee security, NOT make medical decisions especially ones that Can Cause further pain and suffering as he did in my Case.

His decision to deny me this medical care, caused a Deliberate indifference, Placing me at a risk to Cause substantial harm to myself, and also Create further damage to myself by being made to continuously Walk on

my knee that is already damaged, + painful, SGT Escandon deliberately, and intentionally, made this decision without checking in with medical staff, in order to see if there was a specific reason for the recommendation, before taking it upon his self to decide that I don't need them, and therefore neglect the orders of the doctors, as well as myself in the process. This action and decision showed a reckless disregard for my safety and health, as if I didn't deserve medical treatment, simply because I was an inmate.

SGT. Escandon acted in contrast with departmental policy for the Berdo Jail facility, for custody to approve any device or equipment, before it is to be approved. In my Grievance Dated 8.19.22, I complained of the SGT's decision, to deny me medical care, & the response was that it was facility policy, so, therefore SGT Escandon, acted in color of law, causing Deliberate indifference in my situation in which I had to continue, to suffer extreme pain based on his decision to deny me the medical equipment, therefore medical care, that I needed, in order to feel less pain, and get better.

The facility's Policy for Custody to approve or disapprove medical equipment for patients, in need of them, who require them, to receive proper medical care, is unconstitutional ^{and} violates my 14th amendment due process rights, to receive proper medical care, and it's thru the denial, of my recommended appliances,

That actually proved, in action, based the Department Policy, that the department utilizes, that caused, and allowed, SGT Escandon, to make the decision to Deny, shows that the County made it OK, for this to be the guideline that custody staff go by, and therefore, Failed to implement adequate policies, or procedures, in order to safeguard the Constitutional rights of Juvenile Detainees, so that this doesn't continue to happen, like it did to me. I was seen by SGT. Escandon, walking on camera but anyone looking at the video could see without even trying that I obviously, was in pain. This should've allowed the SGT. to approve my appliances, however he denied me, without any concern as to my safety, health, and injury. He violated my 14th Amendment, right to due process, and receive medical care, for my injuries. His inaction caused his decision to bring harm upon myself by me having to continue, limping, & suffering the added pain from placing weight on my injured knee.

Since then, my MRI has shown an extreme tear in my meniscus, and after further contact with my orthopedic specialist, a decision for surgery and a total knee replacement has been scheduled. I charge SGT Escandon, with abusing his authority, and neglecting his duties, in which cause harm & violate prisoners 14th amendment right to due process.